

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRA-S-171-SB-2003 (O&M)

Date of Decision: February 25, 2015

Ajaib Singh @ Laddi and others

...Appellants

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Preetinder S. Ahluwalia, Advocate,
for the appellants.

Mr. K.S. Pannu, DAG, Punjab,
for the respondent.

NARESH KUMAR SANGHI, J (Oral)

1. Challenge in this appeal is to the judgment of conviction and the order of sentence, dated 15.1.2003, passed by learned Additional Sessions Judge, Fatehgarh Sahib, whereby the appellants, namely, Ajaib Singh @ Laddi, Taranjit Singh @ Tina @ Pinderjit and Buta Singh, were held guilty for the offences punishable under Sections 307, 324, 326 and 452 read with Section 34, IPC, and each one of them was ordered to undergo the following sentences:-

Under Section	Sentence (R.I.)	Fine (in Rs.)	In Default (R.I.)
307/34, IPC	7 years	1,000/-	3 months
324, IPC	6 months	500/-	1 month
326, IPC	2 years	500/-	1 month
452, IPC	1 year	500/-	1 month

All the sentences were ordered to run concurrently.

2. During pendency of the present appeal, appellant No.2, Taranjit Singh @ Tina @ Pinderjit, had since died, therefore, the appeal qua him had abated and an order to that effect was passed by this Court on 18.2.2015.

3. At the very outset learned counsel for the appellants (Ajaib Singh @ Laddi and Buta Singh) submits that in view of well reasoned judgment passed by the learned Trial Court, he does not propose to challenge the conviction of the appellants. However, he submits that appellant No. 3, Buta Singh, who is at present approximately 78 years old, has already suffered total sentence of 3 years and more than 6 months, while appellant No.1, Ajaib Singh @ Laddi, has undergone more than 5 years of the substantive sentence and, as such, their respective sentences be reduced to the period already undergone. He further submits that even the injured Munsha Singh has since died. He further contends that both the appellants are ready to duly compensate the legal heirs of Munsha Singh (since deceased). It has also

been pointed out by learned counsel that both the appellants are first offenders; they are neither required nor involved in any other case; the occurrence had taken place in the year 1998; during trial both the appellants were released on bail and even after filing of the appeal their sentence was suspended and they are on bail, but they did not misuse the said concession; and that now the appellants have joined the main stream and it would be un-reasonable to send them behind the bars again after lapse of such a huge period.

4. Learned counsel for the State very fairly concedes that appeal qua appellant No. 2, Taranjit Singh @ Tina @ Pinderjit, has abated. He has produced the affidavits of the Deputy Superintendent, Central Jail, Patiala, showing the period of incarceration suffered by the appellants, Ajaib Singh @ Laddi and Buta Singh, which are taken on record.

5. Perusal of the affidavits reveals that appellant No. 1, Ajaib Singh @ Laddi, has undergone total sentence of more than 5 years while appellant No. 3, Buta Singh, has undergone 3 years and more than 6 months. They are neither required nor involved in any other case. During their incarceration the appellants had earned remission which shows that they were in process of improving themselves.

6. I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

7. Though learned counsel has proposed not to challenge the conviction of the appellants, but to satisfy the conscience of this Court, the material available on record has been rescanned.

8. Brief facts of the case are that PW4, injured Munsha Singh (since deceased) and appellant No. 3, Buta Singh, had a dispute 30 years prior to the present occurrence. The said matter was resolved and a compromise was effected. Buta Singh kept the said incident in his mind and, as such, in connivance with his co-appellants, i.e. his sons, while armed with *Kirpans*, caused as many as 10 injuries on the person of Munsha Singh on 14.4.1998. After the radiological examination, it was found that the injured had received three grievous injuries. The matter was reported to the police. After registration and thorough investigation of the case, the charge-sheet (report under Section 173, Cr.P.C.) was presented before learned Area Judicial Magistrate. Since the offence punishable under section 307, IPC, was triable by the Court of Session, as such, it was committed to the said Court. The charges for the offences punishable under

Sections 307, 324, 326 and 452 read with Section 34, IPC, were framed to which the appellants and their co-convict Taranjit Singh @ Tina @ Pinderjit (since deceased) pleaded not guilty and claimed trial.

9. In order to substantiate its allegations, the prosecution examined as many as 13 witnesses including the injured Munsha Singh and an eye-witness PW5 Balbir Singh. All the witnesses supported the prosecution version. In their statements, recorded under Section 313, Cr.P.C., the appellants denied the incriminating evidence emerged against them and pleaded innocence. The only averment was that due to previous enmity, they had been falsely implicated. No evidence in defence was led.

10. After hearing learned counsel for the parties, learned Trial Court held the appellants guilty for the offences, as mentioned in the initial part of this judgment.

11. From a bare perusal of the depositions of the injured, eye-witness, the investigating officer and the medical evidence, it is well proved on record that the appellants with their co-convict Taranjit Singh @ Tina @ Pinderjit (since deceased) had committed the offences punishable under Sections 307, 324, 326 and 452 read with Section 34, IPC, and, as such, they were rightly

held guilty by the learned Trial Court. In view of above, learned counsel for the appellants has correctly proposed not to challenge their conviction.

12. There appears to be substance in the alternative submissions made by learned counsel for the appellants that the occurrence had taken place more than sixteen years ago; one of the appellants and the injured Munsha Singh have died; during pendency of the trial and the present appeal appellants Ajaib Singh @ Laddi and Buta Singh were released on bail, but they did not misuse the said concession; both the said appellants are neither required nor involved in any other case; Buta Singh is at present aged about 78 years, as pointed out by learned counsel for the appellants from the age mentioned in the judgment of the learned Trial Court; appellant Buta Singh has suffered total incarceration of 3 years and more than 6 months, while Ajaib Singh @ Laddi has undergone more than 5 years, as per the affidavits produced by learned counsel for the State; and that the appellants Ajaib Singh @ Laddi and Buta Singh are ready to compensate the legal heirs of the injured Munsha Singh (since deceased).

13. In view of totality of the facts and circumstances of the case, the sentences awarded to both the appellants, namely,

Ajaib Singh @ Laddi and Buta Singh is reduced to the period already undergone by them. The amount of fine and the sentences in default thereof, as imposed by the learned Trial Court shall remain undisturbed. Both the appellants are further directed to pay Rs. One Lac each (Rs. 1,00,000/- + Rs. 1,00,000/- = Rs. 2,00,000/-) to the legal heirs of Munsha Singh (since deceased). The said amount of compensation shall be deposited by both the appellants before learned Chief Judicial Magistrate, Fatehgarh Sahib, within two months of passing of this judgment. After receipt of the said amount, learned Chief Judicial Magistrate, Fatehgarh Sahib, shall issue notices to the legal heirs of Munsha Singh (since deceased) and disburse the amount of compensation to them in equal shares as per norms. In case the above direction with regard to deposit of the amount of compensation is not adhered to by any of the appellant within the stipulated period, then he shall suffer the sentences as awarded by the learned Trial Court.

14. With the above modification in the order of sentence, the present appeal is partly allowed.

(NARESH KUMAR SANGHI)
JUDGE

February 25, 2015
Pkapoor